

## **REMARKS**

Claims 1-4, 6-11 and 13-19 were pending.

Claims 1-4, 6-11 and 13-19 stand rejected.

Claim 10 is cancelled.

Claims 21-23 are new.

Claims 1 and 6 have been amended.

Claims 1-4, 6-9, 11, 13-19, and 21-23 are pending.

## **Examiner Interview**

An interview was held on June 25, 2008 between Examiners Wu and Rao and Derek Meeker, an attorney for the Applicant. The interview included discussion of the claims in view of the references. In particular, claims 1, 11, and 19 were discussed in view of Stevens and Tanenbaum. An agreement was not reached.

## **Claim Amendments**

Claims 21-23 are new. Claims 1 and 6 have been amended. Support for the new claims can be found in the application as filed, for example, on pages 11-13. No new matter has been added.

## **Claim Rejections – 35 USC § 102**

Claims 11 and 13 are rejected under 35 USC 102(b) as being anticipated by W. Richard Stevens, "UNIX Network Programming" 1990, ("Stevens").

Claim 11 recites "analyzing an incoming data packet according to a plurality of sets of parameters." Claim 11 also recites that "each set of parameters includes a priority, and the sets of parameters are used in analyzing the data packet according to an order of the priorities of the sets of parameters." Thus, the order of analysis is according to priority where the priority is a parameter of each of the sets of parameters.

The Examiner cites the socket *type* of Stevens as the priority. However, nothing in Stevens indicates that any particular type of socket has priority over any other. For example, nothing indicates that a stream socket has priority over a datagram socket, or vice versa.

Moreover, to show the analysis of a data packet, the Examiner cites sections of Stevens discussing a socket system call. First, there is no indication that a data packet is analyzed in response to a socket system call. For example, a connection isn't established until a connect system call is made. Stevens, p. 271. Thus, there can be no data packet to analyze.

Second, even if there is a data packet, there is no teaching in Stevens cited by the Examiner indicating that any analysis of the data packet uses parameters of a socket system call. In fact, Stevens only describes the interface to a protocol layer. It does not describe the internal operation of that protocol layer. Thus, Stevens does not teach any kind of data packet analysis.

The Examiner is reminded that the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. . . . To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' MPEP 2112 IV.

Thus, even if it is possible that a socket type could indicate some kind of order, or that a data packet is analyzed using socket system call parameters, in order for Stevens to anticipate claim 11, it must be necessary in Stevens that the above possibilities occur. However, it is not necessary in Stevens that these possibilities occur. For example, processing in any particular order of socket type can be performed.

Accordingly, Stevens does not teach each and every element of claim 11. The Applicant respectfully requests that the Examiner withdraw the rejection of claims 11 and 13.

### **Claim Rejections – 35 USC § 103**

Claims 1-4, 14-19 are rejected under 35 USC 103(a) as being unpatentable over Stevens in view of U.S. Pub. No. 20030103521 to Raphaeli ("Raphaeli").

Claim 1 recites "classifying the application data in the transport protocol layer as internet protocol (IP) based or non-IP based" and "determining in the transport protocol layer if a connection exists for the application data in response to the classification of the application data." Thus, the determination if a connection exists depends on whether the application data is IP or not.

As described above, Stevens addresses the interface to a protocol layer. It does not address the internal operation of the protocol layer. The address family, cited by the Examiner as the classification of the application data, is a parameter of the socket system call. That is, it is set by the caller of the socket system call, not the protocol layer accessed by to the socket system call.

Moreover, there is no indication that the address family has any bearing on the determination of whether a connection exists. The Examiner cited the connect system call, and the listen and accept system calls to show the determination of whether a connection exists. However, there is no section of Stevens cited by the Examiner that describes how the address family parameter of a socket system call is used in the connect, listen, or accept system calls.

Moreover, Raphaeli is silent on IP, instead describing a powerline MAC layer. Thus, it does not suggest using a classification as IP or non-IP in determining if a powerline MAC connection exists. As Stevens is silent on these aspects, the Examiner is apparently relying on the knowledge of one skilled in the art to show that the determination of whether a connection exists. Accordingly, the Applicant traversed the Examiner's assertion and demands that the Examiner produce authority for the Examiner's argument. MPEP 2144.03 C. If Applicant Challenges a Factual Assertion as Not Properly Officially Noticed or Not Properly Based Upon Common Knowledge, the Examiner Must Support the Finding With Adequate Evidence.

Claim 17 recites "comparing the application data with at least one classifier rule for a match." Dependent claim 19 recites that the method of claim 17 include "for application data that is audio/visual application data: comparing the application data to only at least one destination address within the at least one classifier rule." That is, when comparing application data with the at least one classifier rule, audio/visual application data is compared only to at least one destination address within the at least one classifier rule. The application data is not compared to any portion of the at least one classifier rule other than at least one destination address.

The Examiner has cited "comparing the 5-tuple at the receiving end socket, page 269, line 4-10" of Stevens to show comparing the application data to only at least one destination address within the at least one classifier rule. See Office Action dated March 19, 2008, p. 9. However, the 5-tuple of Stevens includes more than the "foreign-addr". There is no explicit description of any comparison using only the "foreign-addr" element of the 5-tuple. There is

nothing that implies that only the “foreign-addr” element would be used. The addition of Raphaeli does not cure the deficiencies of Stevens.

Accordingly Stevens and Raphaeli do not teach each and every element of claim 19. The Applicant respectfully requests that the Examiner withdraw the rejection of claim 19.

Claims 6-7 and 9-10 are rejected under 35 USC 103(a) as being unpatentable over Andrew S. Tanenbaum, “Computer Networks” Third Edition, 1996 (“Tanenbaum”) in view of Stevens.

Claim 6 recites “classifying the data packet in the first protocol layer in a classifier associated with the service access point, including determining an order of rules associated with the classifier to apply to the data packet using a priority of each of the rules.” As described above, an address family type is not a priority, nor is the address family type described in Stevens as being used to order rules to be applied to data packets.

Moreover, claim 6 recites “for each classification parameter of the rule, comparing a field of the data packet identified by a parameter ID of the classification parameter with a value of the classification parameter.” That is, each classification parameter includes both a parameter ID and a value. None of the references described such a parameter ID or value. For example, to show “at least one rule”, the Examiner apparently cites the protocol argument of the socket system call from Stevens. However, the protocol argument is not an identification of a field in a data packet and a value for that field.

Accordingly, Tanenbaum and Stevens do not teach each and every element of claim 6. The Applicant respectfully requests that the Examiner withdraw the rejection of claim 6 and dependent claims 7 and 9-10.

New claims 21-23, dependent on claim 6, further distinguish the rules over Tanenbaum and Stevens. Accordingly, claims 21-23 are allowable over the cited references.

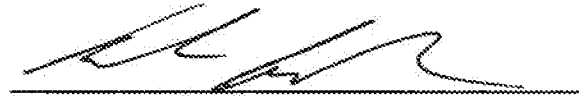
Claim 8 is rejected under 35 USC 103(a) as being unpatentable over Tanenbaum in view of Stevens and U.S. Pat. No. 6,272,145 to Malkin (“Malkin”).

Claim 8 is dependent on claim 6. The addition of Malkin does not cure the deficiencies of Tanenbaum and Stevens with respect to claim 6. For example, Malkin does not disclose priorities of rules or classification parameters including a parameter ID and a value. Accordingly, Tanenbaum, Stevens, and Malkin do not teach each and every element of claim 8. The Applicant respectfully requests that the Examiner withdraw the rejection of claim 8.

For the foregoing reasons, reconsideration and allowance of the claims of the application as amended is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

A handwritten signature in black ink, appearing to read 'Derek Meeker', is written over a horizontal line.

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